

MONTANA LEGISLATIVE HISTORY

Chapter 508 1999

Bill H 185 S _____

Original bill & history ☒ c

H. Committee on Appropriations S. Committee on Judiciary

Hearing Date(s) _____ c

Hearing Date(s) _____ c

1/14 _____ c

3/25 ☒ c

_____ c

_____ c

_____ c

out 3/26 ☒ c

Date Out _____ c

Did this bill originate in an interim committee? _____ Yes ☒ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

HISTORY AND FINAL STATUS 1999

By Request of Department of Environmental Quality

12/24	Introduced		
1/04	1st Reading		
1/04	Referred to Natural Resources		
1/18	Hearing		
2/11	Committee Executive Action--Bill Passed as Amended	19	0
2/11	Committee Report--Bill Passed as Amended		
2/13	2nd Reading Passed	96	4
2/15	3rd Reading Passed	93	6
Transmitted to Senate			
2/23	Referred to Natural Resources		
3/15	Hearing		
3/27	Committee Executive Action--Bill Concurred as Amended	11	0
3/27	Committee Report--Bill Concurred as Amended		
3/29	2nd Reading Concurred	49	0
3/30	3rd Reading Concurred	50	0
Returned to House with Amendments			
4/15	2nd Reading Senate Amendments Concurred	96	4
4/16	3rd Reading Passed as Amended by Senate	83	14
4/16	Sent to Enrolling		
4/19	Returned from Enrolling		
4/20	Signed by Speaker		
4/21	Signed by President		
4/22	Transmitted to Governor		
4/28	Signed by Governor		
4/29	Chapter Number Assigned		
	Chapter Number 507		
	Effective Date: 4/28/1999 - All Sections		

HB 184 Introduced by Harper *LC0553 Drafter: Petesch*

Revise the Use of Coal Severance Tax Funds;...

12/24	Introduced
1/04	1st Reading
1/04	Referred to Business and Labor
1/04	Fiscal Note Requested
1/08	Fiscal Note Received
1/11	Fiscal Note Signed
1/11	Fiscal Note Printed
1/14	Hearing
3/25	Tabled in Committee
3/31	Missed Deadline for Revenue Bill Transmittal

IB 185 Introduced by Menahan *LC0225 Drafter: Fox*

Provide for a Detention Center Inspection Program;...

By Request of Correctional Standards and Oversight Committee

12/24	Introduced
1/04	1st Reading
1/04	Referred to Appropriations
1/04	Fiscal Note Requested
1/08	Fiscal Note Received

HOUSE BILLS AND RESOLUTIONS

1/13	Fiscal Note Printed		
1/14	Hearing	12	6
2/17	Committee Executive Action--Bill Passed as Amended		
2/18	Committee Report--Bill Passed as Amended	61	38
3/04	2nd Reading Passed	69	30
3/05	3rd Reading Passed		
Transmitted to Senate			
3/06	Referred to Judiciary		
3/25	Hearing	6	1
3/26	Committee Executive Action--Bill Concurred		
3/26	Committee Report--Bill Concurred	47	0
3/27	2nd Reading Concurred	44	3
3/29	3rd Reading Concurred		
Returned to House			
3/30	Sent to Enrolling		
3/30	Returned from Enrolling		
3/30	Signed by Speaker		
3/31	Signed by President		
3/31	Transmitted to Governor		
Returned to House with Governor's Proposed Amendments			
4/09	2nd Reading Governor's Proposed Amendments Concurred	96	4
4/15	3rd Reading Governor's Proposed Amendments Concurred	77	21
4/16	Transmitted to Senate for Consideration of Governor's Proposed Amendments		
4/17	2nd Reading Governor's Proposed Amendments Concurred	49	0
4/19	3rd Reading Governor's Proposed Amendments Concurred	45	5
Returned to House Concurred in Governor's Proposed Amendments			
4/19	Sent to Enrolling		
4/20	Returned from Enrolling		
4/21	Signed by Speaker		
4/21	Signed by President		
4/23	Transmitted to Governor		
4/28	Signed by Governor		
4/29	Chapter Number Assigned		
	Chapter Number 508		
	Effective Date: 4/28/1999 - Sections 1-3 and 5-14		
	Effective Date: 10/01/2003 - Section 4		

HB 186 Introduced by Peck *LC0473 Drafter: B. Campbell*

Allow a Pay-on-Death Beneficiary to Be Designated and a Service Fee to Be Deducted for a Medical Care Savings Account and a First-time Home Buyer Savings Account;...

12/24	Introduced		
1/04	1st Reading		
1/04	Referred to Business and Labor		
1/21	Hearing	18	0
1/22	Committee Executive Action--Bill Passed		
1/23	Committee Report--Bill Passed	99	0
1/26	2nd Reading Passed	99	0
1/27	3rd Reading Passed		

HOUSE BILL NO. 185

INTRODUCED BY MENAHAN R

BY REQUEST OF THE CORRECTIONAL STANDARDS AND OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A DETENTION CENTER INSPECTION PROGRAM; REQUIRING DETENTION CENTERS AND HOLDING FACILITIES TO COMPLY WITH THE PROGRAM; PROVIDING THE BOARD OF CRIME CONTROL ADMINISTRATIVE AND RULEMAKING AUTHORITY; PROVIDING FOR DELAYED ENFORCEMENT AUTHORITY; APPROPRIATING MONEY TO THE BOARD OF CRIME CONTROL FOR THE ADMINISTRATION OF THE DETENTION CENTER INSPECTION PROGRAM; AMENDING SECTIONS 7-32-2222, 7-32-2241, 44-4-301, 44-4-302, 50-1-202, 50-1-203, AND 50-2-118, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. The purpose of [sections 1 through 4] is to provide the counties with guidance in order to operate detention centers and holding facilities that comply with minimum life, health, and safety standards and that uphold for inmates the constitutional rights that are guaranteed to all citizens. Operating at minimum standards is intended to reduce the counties' liability and safety concerns and therefore reduce insurance and indemnification costs. The intention of [sections 1 through 4] is to assist counties by providing guidance in policy and procedures and to encourage compliance with standards, not to be punitive in enforcement. Enforcement may include eventual closure of a detention center, but only after a county fails to make sufficient attempts at corrective action.

NEW SECTION. Section 2. Rulemaking authority. The board of crime control may adopt rules necessary to implement the provisions of [sections 1 through 4], including but not limited to rules on:

- (1) detention center inspection regions;
- (2) mandatory detention standards, including policies and procedures, for detention centers and holding facilities;
- (3) detention center inspector training;
- (4) the detention center and holding facility inspection process, including requiring inspection

1 reports, corrective action plans, and followup inspections; and
2 (5) enforcement of mandatory detention center standards.

3
4 **NEW SECTION.** Section 3. Detention center inspection program -- duties and responsibilities --
5 inspector training. (1) There is a detention center inspection program.

6 (2) The duties and responsibilities of the board of crime control in the administration of the
7 program include:

- 8 (a) adopting rules pursuant to [section 2];
9 (b) developing a curriculum to train persons to be qualified detention center inspectors;
10 (c) conducting the detention center and holding facility inspections, which may be contracted to
11 a qualified entity;
12 (d) reviewing inspection reports from detention center and holding facility inspections;
13 (e) reviewing and approving action plans developed by a county to bring a detention center or a
14 holding facility into compliance with adopted mandatory detention center standards; and
15 (f) enforcement as provided in [section 4].

16 (2) The board of crime control may accept grant funds to assist in the administration of the
17 program.

18 (3) The board of crime control shall coordinate detention center and holding facility inspections
19 with building, fire, safety, and public health inspections in order to reduce duplication and expense to local
20 governments.

21
22 **NEW SECTION.** Section 4. Enforcement. (1) The board of crime control is responsible for the
23 enforcement of the mandatory detention center standards and any action plans necessary to bring
24 detention centers and holding facilities into compliance.

25 (2) The board of crime control shall offer a county a reasonable opportunity to take remedial
26 action and shall give a county sufficient time within an action plan to address deficiencies, especially in
27 the event that capital costs are required.

28 (3) The board of crime control is authorized to take the necessary legal steps to enforce the
29 standards, including pursuing closure of a county detention center or holding facility. The board of crime
30 control shall pursue closure of a detention center or a holding facility only after the county has failed to

take remedial action.

Section 5. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of ~~prisoners~~ inmates. (1) Each detention center ~~shall and holding facility shall~~ comply with state and local building and fire codes for correctional occupancy ~~and, with sanitation, safety codes, with public health requirements including and health codes, and with the detention center inspection program as provided in [sections 1 through 4].~~

(2) Designated exits must permit prompt evacuation of inmates and detention center staff in an emergency.

(3) When there is good reason to believe that the inmates may be injured or endangered, the detention center administrator shall remove them to a safe and convenient place and confine them there as long as necessary to avoid the danger.

(4) (a) If in the opinion of the detention center administrator an inmate under the administrator's jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the arresting agency when the arresting agency is not the county in which the inmate is confined, except as provided in 7-32-2245 or subsection (4)(b) ~~of this section~~.

(b) If a city or town commits a person to the detention center or holding facility of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the expense must be paid by the county, except as provided in 7-32-2245. If the department of corrections is the arresting agency and the inmate is a probation violator, the expense must be paid by the county in which the district court that retains jurisdiction over the inmate is located, except as provided in 7-32-2245.

(c) The county attorney shall initiate proceedings to collect from the inmate any charges arising from the medical services or hospitalization for the inmate involved in accordance with 7-32-2245."

Section 6. Section 7-32-2241, MCA, is amended to read:

"7-32-2241. Definitions. As used in this part, the following definitions apply:

(1) "Detention center" means a facility established and maintained by an appropriate entity for the purpose of confining arrested persons or persons sentenced to the detention center.

(2) "Detention center administrator" means the sheriff, chief of police, administrator,

1 superintendent, director, or other individual serving as the chief executive officer of a detention center
2 or holding facility.

3 (3) "Detention center staff" means custodial personnel whose duties include ongoing supervision
4 of the inmates in a detention center or holding facility.

5 (4) "Holding facility" means a facility for the temporary detention of an arrested person for up
6 to 72 hours, excluding holidays, Saturdays, and Sundays. The period of time a person is held in temporary
7 detention may not exceed 96 hours.

8 ~~(4)~~(5) "Inmate" means a person who is confined in a detention center or holding facility.

9 ~~(5)~~(6) "Local government" means a city, town, county, or consolidated city-county government.

10 ~~(6)~~(7) "Multijurisdictional detention center" means a detention center established and maintained
11 by two or more local governments for the confinement of persons arrested or sentenced to confinement
12 or a local government detention center contracting to confine persons arrested or sentenced in other local
13 governments.

14 ~~(7)~~(8) "Private detention center" means a detention center owned by private industry and leased
15 to or operated under a contract with a local government."
16

17 Section 7. Section 44-4-301, MCA, is amended to read:

18 "44-4-301. Functions. (1) As designated by the governor as the state planning agency under the
19 Omnibus Crime Control and Safe Streets Act of 1968, as amended, the board of crime control shall
20 perform the functions assigned to it under that act. The board shall also provide to criminal justice
21 agencies technical assistance and supportive services that are approved by the board or assigned by the
22 governor or legislature.

23 (2) The board may:

24 (a) establish minimum qualifying standards for employment of peace officers, as defined in
25 7-32-303, detention officers, detention center administrators, and public safety communications officers;
26 and

27 (b) develop procedures for revoking or suspending the certification of peace officers, as defined
28 in 7-32 303, detention officers, detention center administrators, and public safety communications
29 officers.

30 (3) The board may require basic training for officers, establish minimum standards for equipment

and procedures and for advanced inservice training for officers, establish minimum standards for the certification of public safety communications officers, establish minimum standards for the certification of motor carrier services division officers appointed under 61-12-201, and establish minimum standards for law enforcement and detention officer training schools administered by the state or any of its political subdivisions or agencies, to ensure the public health, welfare, and safety.

(4) The board may waive the minimum qualification standard provided in subsection (2) for good cause shown.

(5) The board shall establish minimum standards for training of probation and parole officers, pursuant to 46-23-1003.

(6) The board shall administer a detention center inspection program as provided in [sections 1 through 4]."

Section 8. Section 44-4-302, MCA, is amended to read:

"44-4-302. Definitions. As used in 44-4-301, [sections 1 through 4], and this section, the following definitions apply:

(1) "Detention center" means a facility established and maintained by an appropriate entity for the purpose of confining arrested persons or persons sentenced to a detention center.

(2) "Detention center administrator" means the sheriff, chief of police, administrator, superintendent, director, or other individual serving as the chief executive officer of a detention center or ~~temporary detention center~~ holding facility.

(3) "Detention officer" means a person or a peace officer who has full-time or part-time authority and responsibility for maintaining custody of inmates and who performs tasks related to the operation of a detention center or ~~temporary detention center~~ holding facility.

(4) "Holding facility" means a facility for the temporary detention of an arrested person for up to 72 hours, excluding holidays, Saturdays, and Sundays. The period of time a person is held in temporary detention may not exceed 96 hours.

~~(4)~~(5) "Public safety communications officer" means a person who receives requests for emergency services, as defined in 10-4-101, dispatches the appropriate emergency service units, and is certified under 7-31-203.

~~(5) "Temporary detention center" means a facility for the temporary detention of an arrested~~

1 ~~person for up to 72 hours, excluding holidays, Saturdays, and Sundays. The period of time a person is held~~
2 ~~in temporary detention may not exceed 96 hours."~~

3
4 **Section 9. Section 50-1-202, MCA, is amended to read:**

5 **"50-1-202. General powers and duties. The department shall:**

6 (1) study conditions affecting the citizens of the state by making use of birth, death, and sickness
7 records;

8 (2) make investigations, disseminate information, and make recommendations for control of
9 diseases and improvement of public health to persons, groups, or the public;

10 (3) at the request of the governor, administer any federal health program for which responsibilities
11 are delegated to states;

12 (4) inspect and work in conjunction with custodial institutions and Montana university system
13 units periodically as necessary and at other times on request of the governor;

14 (5) after each inspection made under subsection (4), submit a written report on sanitary
15 conditions to the governor and to the director of the department of corrections or the commissioner of
16 higher education and include recommendations for improvement in conditions if necessary;

17 (6) advise state agencies on location, drainage, water supply, disposal of excreta, heating,
18 plumbing, sewer systems, and ventilation of public buildings;

19 (7) develop and administer activities for the protection and improvement of dental health and
20 supervise dentists employed by the state, local boards of health, or schools;

21 (8) develop, adopt, and administer rules setting standards for participation in and operation of
22 programs to protect the health of mothers and children, which rules may include programs for nutrition,
23 family planning services, improved pregnancy outcome, and those authorized by Title X of the federal
24 Public Health Service Act and Title V of the federal Social Security Act;

25 (9) conduct health education programs;

26 (10) provide consultation to school and local community health nurses in the performance of their
27 duties;

28 (11) consult with the superintendent of public instruction on health measures for schools;

29 (12) develop, adopt, and administer rules setting standards for a program to provide services to
30 children with disabilities, including standards for:

(a) diagnosis;

(b) medical, surgical, and corrective treatment;

(c) aftercare and related services; and

(d) eligibility;

(13) provide consultation to local boards of health;

(14) bring actions in court for the enforcement of the health laws and defend actions brought against the board or department;

(15) accept and expend federal funds available for public health services;

(16) have the power to use personnel of local departments of health to assist in the administration of laws relating to public health;

(17) adopt rules imposing fees for the tests and services performed by the department's laboratory. Fees should reflect the actual costs of the tests or services provided. The department may not establish fees exceeding the costs incurred in performing tests and services. All fees must be deposited in the state special revenue fund for the use of the department in performing tests and services.

(18) adopt and enforce rules regarding the definition of communicable diseases and the reporting and control of communicable diseases;

(19) adopt and enforce rules regarding the transportation of dead human bodies;

(20) adopt and enforce rules and standards concerning the issuance of licenses to laboratories that conduct analysis of public water supply systems; and

(21) adopt and enforce minimum sanitation requirements for tattooing as provided in 50-2-116, including regulation of premises, equipment, and methods of operation, solely oriented to the protection of public health and the prevention of communicable disease; and

(22) adopt rules and minimum public health standards for detention centers and holding facilities as defined in 44-4-302."

Section 10. Section 50-1-203, MCA, is amended to read:

"50-1-203. Public health inspections. (1) The department may make public health inspections of schoolhouses, churches, theaters, ~~jails~~ detention centers, holding facilities, and other buildings or facilities where persons assemble. If public health deficiencies are found in the facility, the department may direct that conditions be corrected within a reasonable time.

(2) Either the department or a local board of health may bring an action, including an action for injunctive relief, to correct the public health deficiencies."

Section 11. Section 50-2-118, MCA, is amended to read:

"50-2-118. Powers and duties of local health officers. (1) Local health officers or their authorized representatives shall:

(a) make inspections for sanitary conditions;

(b) as directed by the local board, issue written orders for the destruction and removal of filth ~~which~~ that might cause disease;

(c) with written approval of the department, order buildings or facilities where people congregate closed during epidemics;

(d) on forms provided by the department, report communicable diseases to the department each week;

(e) before the first day of January, April, July, and October, give a report to the local board of sanitary conditions in the county, city, city-county, or district, together with a detailed account of ~~his~~ the officer's activities, on forms and containing information required by the department;

(f) before the 10th day after the report is given to the local board, send a copy of the report required by subsection (1)(e) ~~of this section~~ to the department;

(g) as prescribed by rules adopted by the department, establish and maintain quarantines;

(h) as prescribed by rules adopted by the department, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;

(i) notify the department of ~~his~~ the officer's appointment and changes in membership of the local board;

(j) file a complaint with the appropriate court if this chapter or rules adopted by the local board or state department under this chapter are violated;

(k) validate state licenses issued by the department in accordance with chapters 50 through 53 of this title;

(l) perform annual public health inspections of the sanitary conditions of detention centers and holding facilities prescribed by the department by rule for the purpose of coordinating inspections by multiple government agencies for the detention center inspection program as provided in sections 1

through 4].

(2) With approval of the department, local health officers may forbid persons to assemble in a place if the assembly endangers public health.

(3) A local health officer who is a physician may be placed in charge of a communicable disease hospital, but a local health officer who is a physician is not required to act as a physician to the indigent.

(4) A local health officer who is not a physician ~~shall~~ may not act as a physician to anyone."

NEW SECTION. Section 12. Appropriation. There is appropriated \$200,000 from the general fund to the board of crime control for the administration of a detention center inspection program for the biennium including fiscal years 2000 and 2001.

NEW SECTION. Section 13. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 44, chapter 4, and the provisions of Title 44, chapter 4, apply to [sections 1 through 4].

NEW SECTION. Section 14. Effective dates. (1) [Sections 1 through 3, 5 through 11, 13, and this section] are effective on passage and approval.

(2) [Section 4] is effective October 1, 2003.

(3) [Section 12] is effective July 1, 1999.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By CHAIRMAN TOM ZOOK, on January 14, 1999 at 2:00 P.M., in Room 312 - 2 Capitol.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Joe Quilici, Vice Chairman (D)
Rep. Steve Vick, Vice Chairman (R)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. Peggy Bergsagel (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. John Cobb (R)
Rep. Dick Haines (R)
Rep. Royal Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Red Menahan (D)
Rep. Ray Peck (D)
Rep. Lila Taylor (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: Rep. Stan Fisher (R)

Members Absent: None.

Staff Present: Joanne Gunderson, Committee Secretary
Taryn Purdy, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. These minutes were recorded on a Sony BI-85 and notations are measured in inches rather than minutes.

Committee Business Summary:

Hearing(s) Posted: HB 25, 69, 185, 1/11/1999

Rep. Vick made comments on the bill to the committee.

{Tape : 1; Side : A; Approx. Time Counter : 213 - 233}

Rep. Peck referred to page 18, line 7 and page 19 lines 6 and page 24. Discussion by the committee followed.

{Tape : 1; Side : A; Approx. Time Counter : 233 - 304}

Rep. Quilici gave further information.

{Tape : 1; Side : A; Approx. Time Counter : 304 - 329}

Roger Lloyd, Legislative Fiscal Division

{Tape : 1; Side : A; Approx. Time Counter : 329 - 344; Comments : informational testimony regarding section 9}

Proponents' Testimony:

Jane Jelinski, Montana Association of Counties (MACO)

{Tape : 1; Side : A; Approx. Time Counter : 344 - 377}

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

Rep. McCann closed.

{Tape : 1; Side : A; Approx. Time Counter : 377 - 455}

HEARING ON HB 185

Opening Statement by Sponsor:

Rep. William "Red" Menahan, HD 57, introduced HB 185 and proposed an amendment. EXHIBIT(2)

{Tape : 1; Side : B; Approx. Time Counter : 0 - 29}

Proponents' Testimony:

Capt. Mike O'Hara, Missoula Sheriff's Office

EXHIBIT(3)

{Tape : 1; Side : B; Approx. Time Counter : 29 - 121}

Jane Jelinsky, MACO

{Tape : 1; Side : B; Approx. Time Counter : 121 - 126}

Ray Barnicoat, MACO

EXHIBIT(4)

{Tape : 1; Side : B; Approx. Time Counter : 126 - 154; Comments: Exhibit 4 consists of 12 pages.}

Kathy McGowan, Montana Peace Officers Association

{Tape : 1; Side : B; Approx. Time Counter : 154 - 164}

HOUSE COMMITTEE ON APPROPRIATIONS

January 14, 1999

PAGE 4 of 4

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

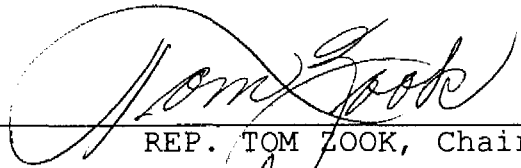
{Tape : 1; Side : B; Approx. Time Counter : 164 - 404}

Closing by Sponsor:

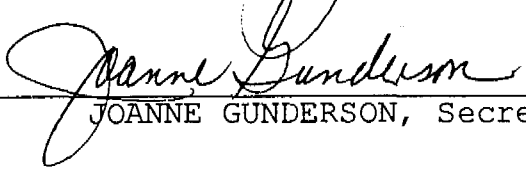
Rep. Menahan closed.

ADJOURNMENT

Adjournment: 2:50 P.M.



REP. TOM ZOOK, Chairman



JOANNE GUNDERSON, Secretary

TZ/JG

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By CHAIRMAN TOM ZOOK, on February 17, 1999 at
3:05 P.M., in Room 312 - 2 Capitol.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Joe Quilici, Vice Chairman (D)
Rep. Steve Vick, Vice Chairman (R)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. Peggy Bergsagel (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. John Cobb (R)
Rep. Stan Fisher (R)
Rep. Dick Haines (R)
Rep. Royal Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Red Menahan (D)
Rep. Ray Peck (D)
Rep. Lila Taylor (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Joanne Gunderson, Committee Secretary
Taryn Purdy, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed. Minutes were
recorded on a Sony BI-85 recorder and references are
measured in inches rather than minutes.

Committee Business Summary:

Hearing & Date Posted: HB 13, 2/11/1999
Executive Action: HB 145, HB 475, (HB 185)

Candace Payne, University Teachers' Union
{Tape : 1; Side : B; Approx. Time Counter : 182 - 202}

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 202 - Tape : 2; Side : B; Approx. Time Counter : 073}

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 73 - 139}

EXECUTIVE ACTION ON HB 145

Motion: REP. JOHNSON moved that HB 145 DO PASS.

Motion: REP. JOHNSON moved that HB 145 BE AMENDED to fund the proposal out of the Governor's budget rather than general funds.

Discussion:

{Tape : 2; Side : B; Approx. Time Counter : 139 - 204}

Substitute Motion: REP. JOHNSON made a substitute motion that HB 145 BE AMENDED by striking all of section 2.

Discussion:

{Tape : 2; Side : B; Approx. Time Counter : 204 - 226}

Substitute Motion/Vote: REP. E. BERGSAGEL made a substitute motion that HB 145 BE TABLED. Substitute motion carried 10-7 by ROLL CALL VOTE.

EXECUTIVE ACTION ON HB 185

Motion: REP. MENAHAN moved that HB 185 DO PASS AS AMENDED.

Discussion:

{Tape : 2; Side : B; Approx. Time Counter : 226 - 500}

Motion: REP. E. BERGSAGEL moved that HB 185 BE AMENDED by removing the appropriation from the bill.

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 0 - 1}

Vote: Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 1 - 4}

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 4 - 30}

Motion: REP. MENAHAN moved that HB 185 BE AMENDED by placing a period after "all."

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 30 - 140; Comments :
Rep. Menahan withdrew the motion to amend.}

Vote: Do Pass as Amended Motion carried 12-6 with P. Bergsagel, Fisher, Kasten, McCann, Taylor, and Vick voting no.

{Tape : 3; Side : A; Approx. Time Counter : 140 - 149}

EXECUTIVE ACTION ON HB 475

Motion/Vote: REP. E. BERGSAGEL moved that HB 475 BE TABLED.

Motion carried 17-1 with Peck voting no.

{Tape : 3; Side : A; Approx. Time Counter : 149 - 195; Comments :
Agreement to remove from table depending on CI-75 decision.}

EXECUTIVE ACTION ON HB 555

Motion: REP. TROPILA moved that HB 555 DO PASS.

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 195 - 279; Comments :
Rep. Tropila withdrew the motion pending language revision.}

EXECUTIVE ACTION ON HB 433

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 279 - 305}

Motion: REP. TROPILA moved that HB 433 DO PASS.

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 305 - 403; Comments :
Rep. Tropila withdrew the motion until clarification by Greg Petesch could be made.}

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 25, 1999
at 8:21 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 54, 3/19/1999; HB 59,
3/19/1999; HB 482, 3/19/1999;
HB 185, 3/19/1999
Executive Action: HB 339; HB 459; HB 566

EXECUTIVE ACTION ON HB 459

Discussion:

Valencia Lane explained the amendments for **HB 459. EXHIBIT(1)**

allowed to tell their staff because of constitutional rights. He said they don't have a budget for therapies and it is very difficult on the counties if they have to provide treatment.

CHAIRMAN GROSFIELD asked if this is a disease bill. **REP. MENAHAN** said the bill is not about AIDS, etc. it is a moral issue within the prisons and jails for the staff that is degraded by these inmates and have no recourse. He said if the staff is not immunized it causes them a lot of worry, etc.

Closing by Sponsor:

REP. MENAHAN closed on **HB 54**.

{Tape : 2; Side : A; Approx. Time Counter : 10:10 a.m.}

HEARING ON HB 185

Sponsor: **REP. WILLIAM "RED" MENAHAN, HD 57, Anaconda**

Proponents:

Gene Kiser, Montana Board of Crime Control
Dennis McCave, Yellowstone Co. Detention Center
Ray Barnicoat, MT Assoc. of Counties Risk Manager
Jim Smith, Montana Sheriffs and Peace Officers Assoc.
Kathleen Martin, Department of Public Health and Human Services

Opponents: None

Opening Statement by Sponsor:

REP. WILLIAM "RED" MENAHAN, HD 57, Anaconda, said this bill will train people to inspect jails and create procedure manuals for law enforcement so that they will know what the policy is and help them if they get sued, etc. He said they are still trying to get some funding that could go into **HB 2**.

Proponents' Testimony:

Gene Kiser, Montana Board of Crime Control, said the board has been involved with the Sheriffs and Peace Officers Assoc. since the early 1970s in working with and developing jail standards. The board has unanimously said they will administrate this bill, but without funding, this can pose a problem as they have no way to administrate this.

Dennis McCave, Yellowstone Co. Detention Center, said the establishment of jail standards is essential to get consistency throughout the state.

Ray Barnicoat, MT Assoc. of Counties Risk Manager, said the county would have the ability to raise money if necessary to address deficiencies and capital costs required as a result of a jail inspection. This would require a vote of the people to have a tax increase. The funding should also be in place to make sure the goals of this effort are met. He said back in 1997 there was a suit filed in Lake County as a result of the death of an inmate. The cost of that case exceeded close to \$1.5 Million and this was incurred by the county and the citizens of Lake County. He said they have had jail standards in Montana for a long time, but they have always been voluntary. However, they have not paid much attention to these issues. Nonetheless, they do need to take a more aggressive approach to the implementation of mandatory standards.

Jim Smith, Montana Sheriffs and Peace Officers Assoc., said this is an issue of liability at the county level. He said the \$200,000 appropriation was taken out in the House and it needs to be restored. He said the purpose of this money was to train a group of people who could undertake jail inspections. He said it would also provide the Board of Crime Control a little bit of administrative cost for their time and work. He said there could be some annual costs after that.

{Tape : 2; Side : B; Approx. Time Counter : 10:22 a.m.}

Kathleen Martin, Department of Public Health and Human Services, said this could be very difficult on local health departments.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. JABS said this is to stop liability, but if they request a county to bring their jail up to code it could be very difficult for the county to afford that and what happens if they don't do it, will it create more liability? **Ray Barnicoat** said this could happen, but through training, hopefully they will be able to convince sheriffs and jail administrators that this is a very necessary process.

CHAIRMAN GROSFIELD asked if they had anyone in Finance and Claims trying to find money for this bill. **REP. MENAHAN** said they might not get it all, but hopefully they can get enough to do some training.

Closing by Sponsor:

REP. MENAHAN said the idea is not to go out and take over a facility. He said they will have the sessions of 2001 and 2003 to review this. He said they had a student that committed suicide in the Anaconda/Deer Lodge County Jail during the night and no one checked on any activities during the night and the county might be liable for that. He said most jails don't even have a procedure manual for putting people in jail, etc.

SEN. BISHOP took over the chair.

HEARING ON HB 59

Sponsor: **REP. DOUG MOOD, HD 58, Seeley Lake**

Proponents:

Diana Leibinger-Koch, Department of Corrections

Sandy Heaton, Clinical Director of the Sex Offender Program at MT State Prison

Opponents: None

Opening Statement by Sponsor:

REP. DOUG MOOD, HD 58, Seeley Lake, said under the current law an individual who commits a sexual offense and then commits a further crime can plea bargain out of the sexual offense in the process of pleading guilty for murder, etc. When that individual gets out in society there is no notification to the members of society that his motivation for his crime was a sexual offense. He said under this bill the judge can now order an offender to register as a sex offender, but only if the offender agrees to that in the plea bargain arrangement. He read the criteria set forth in the bill concerning plea bargaining arrangements. He said the defendant must plead guilty to a sex offense or agree to register in the plea bargaining agreement or be convicted of the sexual offense.

Proponents' Testimony:

Diana Leibinger-Koch, Department of Corrections, used some examples of a few cases concerning this bill. Case number one was an offender who molested a young girl from the age of 8 to 11 years old. The county attorney originally charged this man with felony, sexual assault, indecent exposure, and endangering the welfare of children. But during the plea bargain it was pleaded down to a non-registered sex offense of just regular assault. He

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 26, 1999
at 8:05 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Delila Croucher, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 455, HB 530,
Executive Action: HB 185; HB 197; HB 269; HB 530;
HB 455; HB 482

EXECUTIVE ACTION ON HB 482

Motion/Vote: SEN. BARTLETT moved that AMENDMENT HB0048201.av1 BE
ADOPTED WITH CHANGES. Motion carried 6-0 with Doherty, Jabs and
Grimes being absent. EXHIBIT(1)

Jeff Mangen, HD 45, Great Falls presented a conceptual amendment
to the Committee.

Motion/Vote: SEN. HALLIGAN moved that CONCEPTUAL AMENDMENT BE ADOPTED. Motion carried 6-0 with Doherty, Jabs and Grimes being absent.

Motion/Vote: SEN. MCNUTT moved that HB 482 BE CONCURRED IN AS AMENDED. Motion carried 5-1 with Halligan voting no.
{Tape : 1; Side : A; Approx. Time Counter : 0 - 5.6}

EXECUTIVE ACTION ON HB 185

Motion: SEN. HALLIGAN moved that HB 185 BE CONCURRED IN.

Discussion:

SEN. HOLDEN asked for an explanation for the \$138,000 Fiscal Note. SEN. HALLIGAN said that there is a lot of Federal case law on the civil rights issue of juveniles that this bill will help make sure that standards are upheld. People want these standards so that they know what they have to comply with. This bill does now, what Federal case law has forced to be done anyway. Statute offers protection from getting sued. SEN. HOLDEN asked for a response to the theory that the more you do the more you get sued for. SEN. HALLIGAN said that if one has complied with the law, someone is potentially able to sue you, but now one has the statute of the law to rely on that sets minimum standards. SEN. HOLDEN noted that he will vote no on the bill. The people who testified seemed to be giving a false sense of endorsement. The people in Glendive did not offer support for this bill as well. SEN. HALLIGAN said that standards prevent negligence. SEN. HOLDEN said that standards can also prevent negligent establishments from receiving deserved negligent charges.

SEN. BARTLETT said that this bill grew out of a study resolution that required a look at correctional standards. Eventually, it ended up in the hands of the Correctional Standards Oversight Committee to provide consistency. It is modeled off of Federal standards for detention facilities. This is a piece of legislation that has had a lot of review during the interim and was carefully designed by a group of legislatures, who through the course of their study learned the most of any of us about these particular issues.

SEN. MCNUTT said that this bill is kind of a catch twenty-two. However, this bill says it will develop minimum standards for life, health and safety around the state. It is not a bad piece of legislation and he supports it.

SEN. HALLIGAN said that a person on a jury will have discretion to establish what is reasonable deviation from the standard.

Vote: Motion carried 6-1 with Holden voting no.

{Tape : 1; Side : A; Approx. Time Counter : 5.6 - 19.2}

EXECUTIVE ACTION ON HB 197

Motion: SEN. HALLIGAN moved that HB 197 BE TABLED.

SEN. HALLIGAN noted that the Committee shouldn't put a lot of work into something that doesn't make any sense whatsoever. SEN. GROSFIELD said that the reason time is being put into this is because he didn't like it statements of intent were dropped last session. Bills that come up, that have rule making in them, having very little if any guidance to the agency as to how they will specifically develop the rules. Statements of intent, when used right, give guidance. It makes sense to have some kind of guidance for the legislative Committee to look at when they are dealing with the bill. SEN. MCNUTT said that it is time consuming to have rules established. The process may be extremely slowed down. SEN. HALLIGAN made the point that not only will the process be slowed down, but rule notes will have to be debated.

Vote: Motion carried 6-2 with Grimes and Grosfield voting no.

{Tape : 1; Side : A; Approx. Time Counter : 19.2 - 26.1}

EXECUTIVE ACTION ON HB 269

SEN. HALLIGAN proposed that the Department adopt rules that would allow an advocate in addition to the guardian ad litem that is appointed for the child. We should allow for the Department to establish the position of advocate in their rules and set a time frame for the rules to be in place.

SEN. GRIMES questioned whether an advocate program would be similar to the bill or whether it would be more open. Chuck Hunter, , requested legislative direction in that area, especially if it is the intent of this Committee to make the advocate position broader than is presently in the bill. Currently any family who wants someone involved in this fashion is allowed to have them participate.

{Tape : 1; Side : A; Approx. Time Counter : 26.1 - 30.1}

SEN. GROSFIELD raised a concern that advocacy roles are really attorney roles. He also questioned who would qualify as a family